

JOURNAL OF THE HOUSE.

Thursday, October 28, 2004.

Met according to adjournment, at eleven o'clock A.M., in an Informal Session, with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Prayer.

God, Our Creator, our faith in You, Your ways and values enables us to address in a wise and objective manner proposed and pending legislation. Your assistance and guidance endows us with the energy to promote goals and causes which enhance the human dignity of each person and protect our traditional institutions. As elected leaders, teach us to be open to the legislative experiences of our predecessors as we deal with today's challenges and plan for the future of our children. As members of the one human family, inspire us to work together, in our diverse society, for the good of all people who are seeking personal happiness, purpose and security.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

Pledge of
allegiance.

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Richard
William
Gibson.

Resolutions (filed by Mrs. Canavan of Brockton) congratulating Deputy Chief Richard William Gibson on the occasion of his retirement from the West Bridgewater Fire Department;

Michael R.
Lunsford.

Resolutions (filed by Mr. Fagan of Taunton) honoring the consecration of Bishop Michael R. Lunsford;

Duncan
Stewart.

Resolutions (filed by Representatives Gobi of Spencer and Binienda of Worcester) in recognition of Duncan Stewart; and

Citizens for
Citizens,
Inc.

Resolutions (filed by Mr. Sullivan of Fall River) honoring Citizens for Citizens, Inc., on the occasion of their twenty-fifth anniversary;

Mrs. Harkins of Needham, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Ruane of Salem, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Order.

The following order (filed by Mr. Greene of Billerica) was referred, under Joint Rule 30, to the committees on Rules of the two branches, acting concurrently:

THURSDAY, OCTOBER 28, 2004.

2533

Ordered, That, notwithstanding the provisions of Joint Rule 10 the committee on Natural Resources and Agriculture be granted until Tuesday, November 30, 2004, the time in which to make its final report on current House documents, 5097 and 5106 relative to Thames River Valley and Cherry Valley Water District respectively.

Mr. Scaccia of Boston, for the committees on Rules, then reported that the order ought to be adopted. Under suspension of the rules, on motion of Mrs. Walrath of Stow, the order was considered forthwith; and it was adopted. Sent to the Senate for concurrence.

Natural
Resources
and
Agriculture
committee,
-
extension
of time for
reporting.

Petitions.

Petitions severally were presented and referred as follows:

By Mr. Marzilli of Arlington, petition (accompanied by bill, House, No. 5114) of J. James Marzilli, Jr., Jay R. Kaufman, Anne M. Paulsen and Robert A. Havern (by vote of the town) that the town of Arlington be authorized to place certain questions on the ballot relative to the sale of alcoholic beverages in said town. To the committee on Government Regulations.

Arlington,
liquor
licenses.

By Mr. Spellane of Worcester, petition (accompanied by bill, House, No. 5115) of Robert Spellane (by vote of the town) that the town of Paxton be authorized to establish a capital depreciation fund;

Paxton,
depreciation
fund.

By Mr. Marzilli of Arlington, petition (accompanied by bill, House, No. 5116) of J. James Marzilli, Jr., Jay R. Kaufman, Anne M. Paulsen and Robert A. Havern (by vote of the town) that the town of Arlington be authorized to transfer certain funds from the building insurance trust fund to the stabilization fund of said town; and

Arlington,
fund
transfer.

By the same member, petition (accompanied by bill, House, No. 5117) of J. James Marzilli, Jr., Jay R. Kaufman, Anne M. Paulsen and Robert A. Havern (by vote of the town) for legislation to remove the residency requirement for the town counsel of the town of Arlington;

Arlington,
town
counsel.

Severally to the committee on Local Affairs and Regional Government.

By Mr. Larkin of Pittsfield, petition (accompanied by bill, House, No. 5118) of Peter J. Larkin, Andrea F. Nuciforo, Jr., Shaun P. Kelly and William Smitty Pignatelli (with the approval of the mayor and city council) that the city of Pittsfield be authorized to prohibit the operation of certain commercial vehicles from a portion of Merriam Street located in said city. To the committee on Public Safety.

Pittsfield,
Merriam
Street.

By Ms. Khan of Newton, petition (accompanied by bill, House, No. 5119) of David B. Cohen (mayor), Kay Khan, Ruth B. Balser, Cynthia S. Creem and Peter J. Koutoujian (with the approval of the board of aldermen) that the city of Newton be authorized to establish income qualifications for certain elderly persons under the real property tax deferral program; and

Newton,
tax deferral
program.

By Ms. Donovan of Woburn, petition (accompanied by bill, House, No. 5120) of Carol A. Donovan, Paul C. Casey and Richard R. Tisei (by vote of the town) that the town of Stoneham be authorized

Stoneham,
proposition 2%.

to place tax proposition two and one-half underrides on the ballot in said town;

Severally to the committee on Taxation.

Severally sent to the Senate for concurrence.

Justice
Philip
Rapoza.

Mr. Cabral of New Bedford presented a petition (subject to Joint Rule 12) of Antonio F. D. Cabral, Mark C. Montigny, John F. Quinn, Joan M. Menard and Robert M. Koczera for legislation to extend a certain leave of absence for Philip Rapoza, an associate justice of the Appeals Court; and the same was referred, under Rule 24, to the committee on Rules.

Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, then reported recommending that Joint Rule 12 be suspended. Under suspension of the rules, on motion of Mr. Rushing of Boston, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on the Judiciary. Sent to the Senate for concurrence.

Petitions severally were presented and referred as follows:

By Mr. Binienda of Worcester, petition (subject to Joint Rule 12) of John J. Binienda for legislation to impose a penalty for persons twenty-one years of age or under for consuming alcoholic beverages.

By Mr. deMacedo of Plymouth, petition (subject to Joint Rule 12) of Viriato Manuel deMacedo and Thomas J. O'Brien relative to the forfeiture of parental rights by parents convicted for the murder of a spouse.

By Mr. DiMasi of Boston, petition (subject to Joint Rule 12) of Salvatore F. DiMasi and Eugene L. O'Flaherty relative to the appointment of a unified session clerk in the Superior Court for Criminal Business in Suffolk County.

By Mr. Fresolo of Worcester, petition (subject to Joint Rule 12) of John P. Fresolo that certain visually-impaired persons be exempt from the sales tax imposed on the purchase of motor vehicles.

By the same member, petition (subject to Joint Rule 12) of John P. Fresolo that motor vehicles used for public safety in cities and towns of the Commonwealth be exempt from the tax imposed on the sale of gasoline.

By the same member, petition (subject to Joint Rule 12) of John P. Fresolo for an appropriation of a certain sum of money for bus services provided by the Worcester Regional Transit Authority for residents of Worcester County.

By Ms. Gifford of Wareham, petition (subject to Joint Rule 12) of Susan Williams Gifford, Daniel K. Webster, Viriato Manuel deMacedo, Thomas J. O'Brien and Brian P. Wallace for legislation to designate a certain bridge in the town of Carver as the Specialist First Class Robert Rooney Bridge.

By Mrs. Gomes of Harwich, petition (subject to Joint Rule 12) of Shirley Gomes, Robert A. O'Leary, Susan Williams Gifford, Therese Murray, Thomas N. George and Jeffrey Davis Perry relative to the purchase of real property by the Barnstable County Retirement Association.

Underage
drinking,
fines.

Spousal
murder,
parental
rights.

Suffolk
County,
unified
clerk.

Blind
persons,
vehicle
tax.

Public
safety
vehicles,
gas tax.

Worcester
County,
bus
service.

Carver,
Rooney
Bridge.

Barnstable
County
Retirement
Association.

By Mr. Knuuttila of Gardner, petition (subject to Joint Rule 12) of Brian Knuuttila for legislation to establish a sick leave bank for Melissa J. Cornell, an employee of the Ayer Division of the District Court Department of the Trial Court.

By Mr. Kocot of Northampton, petition (subject to Joint Rule 12) of Peter V. Kocot and other members of the House for legislation to establish a supplemental fuel aid fund.

By Mr. Nangle of Lowell, petition (subject to Joint Rule 12) of David M. Nangle and Steven C. Panagiotakos that the Registrar of Motor Vehicles be authorized to provide changes in license identification numbers without the imposition of a fee.

By Mr. Patrick of Falmouth, petition (subject to Joint Rule 12) of Matthew C. Patrick and Shirley Gomes for legislation to prohibit certain insurance companies from refusing to provide homeowners insurance in storm-related areas.

By Mr. Spellane of Worcester, petition (subject to Joint Rule 12) of Robert Spellane and Stephen M. Brewer that the Teachers' Retirement Board be authorized to grant certain credit to Maureen Anderson for teaching services performed at the Worcester County House of Correction.

By Mr. Vallee of Franklin, petition (subject to Joint Rule 12) of James E. Vallee relative to the photograph requirements concerning the registration of sex offenders.

Severally, under Rule 24, to the committee on Rules.

Papers from the Senate.

The House Bill authorizing the Division of Capital Asset Management and Maintenance to convey a certain parcel of land to the town of Westfield (House, No. 5035) came from the Senate passed to be engrossed, in concurrence, with the following amendments:

In section 1, in line 3 (as printed), striking out the following: "the provisions of section 40F and 40F1/2" and inserting in place thereof the following: "sections 40E through 40I, inclusive," and adding at the end of said section the following sentence: "The exact boundaries of the parcels shall be determined by said commissioner in consultation with the department of conservation and recreation in accordance with the Plan of Easement.";

In section 2, in lines 1 to 15, inclusive, striking out the five sentence contained therein and inserting in place thereof the following two sentences: "The consideration for the conveyance authorized by this act shall be the permanent connection and agreement that the city of Westfield shall allow the Western Massachusetts Hospital facility, its successors and assigns, to connect by means of a sewer tie-in to the pump station on Parcel E-5 to the city of Westfield's sewer collection system, which terminates at the Westfield wastewater treatment plant. The commissioner shall submit the agreement and any subsequent amendment thereto and a report thereon to the inspector general for his review and comment." and in said section, in lines 21 and 22, striking out the words "at least fifteen days prior to execution"; and

In section 3, in line 2, striking out the words "the appraisal, survey and".

Melissa J.
Cornell,
sick leave
bank.

Fuel
aid
fund.

Licenses,
identification
numbers.

Homeowners
insurance.

Maureen
Anderson,
creditable
service.

Sex
offenders,
photographs.

Westfield,
land
conveyance.

Under suspension of Rule 35, on motion of Mr. Kafka of Stoughton, the amendments (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted, in concurrence.

Plymouth,
by-laws.

A Bill relative to the by-laws of the town of Plymouth (Senate, No. 2481) (on a petition) [Local Approval Received], passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Cohasset,
bonds.

Petitions were referred, in concurrence, as follows:
Petition (accompanied by bill, Senate, No. 2497) of Robert L. Hedlund and Garrett J. Bradley (by vote of the town council) for legislation relative to the issuance of certain bonds by the town of Cohasset. To the committee on Local Affairs and Regional Government.

Weymouth,
creditable
service.

Petition (accompanied by bill, Senate, No. 2498) of Robert L. Hedlund (with approval of the mayor and town council) for legislation relative to permitting reinstated town employees to purchase creditable service for retirement purposes. To the committee on Public Service.

Michael L.
Buckley,
veteran.

A petition of Marian Walsh and Michael F. Rush for legislation relative to the Veteran Status of Michael L. Buckley, came from the Senate referred, under suspension of Joint Rule 12, to the committee on Public Service.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 2499) was referred, in concurrence, to the committee on Public Service.

Reports of Committees.

Middlesex
Canal
Commission.

By Mr. Scaccia of Boston, for the committees on Rules of the two branches, acting concurrently, asking to be discharged from further consideration of the Bill relative to the Middlesex Canal Commission (House, No. 5062, changed),— and recommending that the same be referred to the House committee on Rules. Under Rule 42, the report was considered forthwith; and it was accepted.

North
Attleborough,
elections.

By Mr. Straus of Mattapoisett, for the committee on Election Laws, on a petition, a Bill relative to elections in the town of North Attleborough (House, No. 5012) [Local Approval Received]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mr. Lepper of Attleboro, the bill was read a second time forthwith; and it was ordered to a third reading.

Onset
Fire
District.

By Mrs. Owens-Hicks of Boston, for the committee on Local Affairs and Regional Government, on a petition, a Bill providing for the appointment of a clerk-treasurer of the Onset Fire District

(House, No. 4932). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Ms. Wolf of Cambridge, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Koczera of New Bedford, for the committee on Public Service, on a petition, a Bill relative to the city of Melrose (printed as Senate, No. 2452) [Local Approval Received]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Melrose,
police
officers.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mr. Kafka of Stoughton, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Koczera of New Bedford, for the committee on Public Service, on a petition, a Bill authorizing the certification for appointment of Eric K. Gouck as a firefighter in the town of North Attleborough (House, No. 4963) [Local Approval Received]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Eric K.
Gouck.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Lepper of Attleboro, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Casey of Winchester, for the committee on Taxation, on the recommitted Order relative to authorizing the committee on Taxation to make an investigation and study of a certain House document requiring the Commissioner of Revenue to accept a certain application for abatement of taxes (House, No. 5090), a Bill directing the Commissioner of Revenue to accept a certain application for abatement of taxes (House, No. 5123). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Peter P.
and Marlene
Rhodus.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mr. Smizik of Brookline, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill relative to the establishment of a retained revenue account for the End of Life Commission (Senate, No. 2412) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

End of Life
Commission.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Rushing of Boston, the bill was read a second time forthwith; and it was ordered to a third reading.

East
Longmeadow,
bonds.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill relative to the insurance of certain bonds by the town of East Longmeadow (House, No. 4731) ought to pass [Local Approval Received]. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Smizik of Brookline, the bill was read a second time forthwith; and it was ordered to a third reading.

Falmouth,
golf
course.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, that the Senate Bill authorizing certain terms for borrowing by the town of Falmouth for the acquisition and operation of a golf course (Senate, No. 2447) [Local Approval Received] be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mrs. Paulsen of Belmont, the bill was read a second time forthwith; and it was ordered to a third reading.

Milford,
geriatric
authority.

By Mrs. Parente of Milford, for the committee on Long-Term Debt and Capital Expenditures, that the Bill increasing the bonding for the Geriatric Authority of Milford (House, No. 5071) [Local Approval Received] ought to pass with an amendment substituting therefor a Bill increasing the borrowing limit of the town of Milford for the funding of the Geriatric Authority of Milford (House, No. 5121). Referred, under Rule 33, to the committee on Ways and Means with the amendment pending.

Wedgewood
Condominium
Trust.

By Mr. Scaccia of Boston, for the committee on Rules, on House No. 4718, reports, in part, a Bill relative to the Wedgewood Condominium Trust in the town of Southborough (House, No. 1331). Read; and referred, under Rule 33, to the committee on Ways and Means.

Emergency Measure.

Transportation.

The engrossed Bill relative to the transportation of certain persons (see House, No. 5083), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 8 to 0. Sent to the Senate for concurrence.

Engrossed Bills.

Engrossed bills

Bills
enacted.

Relative to creditable service for vocational education teachers (see Senate, No. 1559, amended);

Relative to the appointment of retired police officers in the town of Wakefield (see Senate, No. 2375);

Authorizing the city of Quincy to establish an affordable housing trust fund (see Senate, No. 2469);

(Which severally originated in the Senate);

Relative to the civil commitment process for persons with mental illness (see House, No. 3170); and

Relative to the founders of Boston University (see House, No. 5079, amended);

(Which severally originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

Orders of the Day.

The Senate Bill establishing standards for long term care insurance (Senate, No. 2415) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly drawn, was read a third time; and it was passed to be engrossed, in concurrence.

Third
reading
bill.

House bills

Relative to the relocation and alteration of layout of High Pole Hill Road in the town of Provincetown (House, No. 3840); and

Authorizing the State Ethics Commission to provide exemptions from the conflict of interest law (House, No. 5113);

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

Third
reading
bills.

The Senate Bill authorizing the town of Hull to extend leases on Nantasket Pier and to borrow money for the construction of a certain marine or pier facility for a term of not to exceed 30 years (Senate, No. 2214), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Hull,
Nantasket
Pier.

Pending the question on passing the bill to be engrossed, Mr. Bradley of Hingham moved that it be amended by striking out all after the enacting clause and inserting in place thereof the following:

“SECTION 1. The town of Hull, acting by and through its board of selectmen, may subject to paragraphs (a), (b) and (g) of section 16 of chapter 30B of the General Laws, and on such terms and conditions as the town deems to be in said town's best interests in keeping with said paragraphs (a), (b) and (g), extend the leases of the current lessees or their heirs, assigns and successors of portions of Nantasket Pier and the abutting shore land for periods of not more than 25 years for use as a marine or pier facility, including commercial activities incidental and related to such use and necessary in order to achieve the primary public objectives of the town to use such property as a marine or pier facility. A lessee of the aforementioned property is prohibited from subleasing said property, or any portion thereof, or any improvements thereto, without the prior written approval of the board of selectmen of said town.

Hull,
Nantasket
Pier.

SECTION 2. The town of Hull may borrow funds, for a term not to exceed 30 years, to construct a marine or pier facility in said town.

SECTION 3. Any further disposition of the marine or pier facility described in section 1, or any portion thereof, or improvement thereto, shall be subject to the provisions of section 16 of chapter 30B of the General Laws.”.

The amendment was adopted; and the bill (House, No. 2214, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendment.

Hull,
Pemberton
Pier.

The Senate Bill authorizing the town of Hull to extend the leases at Pemberton Pier (Senate, No. 2215), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time; and it was passed to be engrossed, in concurrence.

Pending the question on passing the bill to be engrossed, Mr. Bradley of Hingham moved that it be amended by striking out all after the enacting clause and inserting in place thereof the following:

“SECTION 1. The town of Hull, acting by and through its board of selectmen, may subject to paragraphs (a), (b) and (g) of section 16 of chapter 30B of the General Laws, and on such terms and conditions as the town deems to be in said town’s best interests in keeping with said paragraphs (a), (b) and (g), extend leases with the current lessees or their heirs, assigns and successors for all, or any portion, or any improvement thereto of the Pemberton Pier for a period of not more than 25 years for uses consistent with a pier facility. A lessee of the aforementioned property, or any portion thereof, or any improvement thereto, shall be prohibited from sub-leasing said property, portion, or improvement without the prior written approval of the board of selectmen of said town.

SECTION 2. Any further disposition of the Pemberton pier facility described in section 1, or any portion thereof, or improvement thereto, shall be subject to section 16 of chapter 30B of the General Laws.”.

The amendment was adopted; and the bill (House, No. 2215, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendment.

Personal
property,
taxation.

The House Bill relative to the taxation of certain personal property (House, No. 4219), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Demakis of Boston moved that it be amended by striking out all after the enacting clause and inserting in place thereof the following:

“Section 5 of chapter 59 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the word ‘domicile’, in line 451, the following words:- , or on loan to a charitable organization; provided, however, that no such property shall be exempt if it would not be exempt pursuant to clause Third if such property were owned by such organization.”.

The amendment was adopted; and the bill (House, No. 4219, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Order.

On motion of Mr. DiMasi of Boston,—

Ordered, That when the House adjourns today, it adjourn to meet on Monday next at eleven o’clock A.M. Next sitting.

At twenty-five minutes before twelve o’clock noon, on motion of Mr. Tobin of Quincy (Mr. Donato of Medford being in the Chair), the House adjourned, to meet on Monday next at eleven o’clock A.M., in an Informal Session.